

**MCGUIREWOODS LLP**

David C. Powell SBN #129781  
dpowell@mcguirewoods.com  
Carolee Anne Hoover SBN #282018  
choover@mcguirewoods.com  
Two Embarcadero Center  
Suite 1300  
San Francisco, CA 94111-3821  
Telephone: 415.844.9944  
Facsimile: 415.844.9922

**MCGUIREWOODS LLP**

K. Issac deVyver, *Pro Hac Vice*  
kdevyver@mcguirewoods.com  
Nellie Hestin, *Pro Hac Vice*  
nhestin@mcguirewoods.com  
260 Forbes Avenue  
Suite 1800  
Pittsburgh, PA 15222  
Telephone: 412.667.7909  
Facsimile: 412.667.7993

Attorneys for Defendant Wells Fargo Bank, N.A.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

ANNIE CHANG, TIGER CHANG  
INVESTMENTS, LLC, ASIANS  
INVESTING IN REAL ESTATE, LLC,  
MELANIE GONZALES, GARY  
GONZALES, and G&M YOU-NIQUES  
PROPERTY LLC, Individually and On  
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

WELLS FARGO BANK, N.A.,

Defendant.

CASE NO. 4:19-cv-01973-HSG

**JOINT STIPULATION AND  
ORDER TO SET BRIEFING  
SCHEDULE FOR WELLS FARGO'S  
MOTION TO STAY**

Pursuant to Northern District of California Civil Local Rules 7-11 and 7-12 and the Court's Standing Order, Defendant Wells Fargo Bank, N.A. ("Defendant") through counsel, with the agreement of counsel for Plaintiffs Annie Chang, Tiger Chang Investments, LLC, Asians Investing in Real Estate, LLC, Melanie Gonzales, Gary Gonzales, and G&M You-Niques Property LLC (collectively, "Plaintiffs"), hereby stipulate as follows:

### **RECITALS**

WHEREAS, Plaintiffs brought this class action lawsuit alleging Wells Fargo aided and abetted an alleged Ponzi scheme conceived by non-parties Jerome and Shaun Cohen and their entities Equitybuild, Inc. and Equitybuild Finance, LLC f/k/a Hard Money Company, LLC (collectively, "Equitybuild") (ECF 1);

WHEREAS, Equitybuild is not a named party in this case, however, the SEC has filed a lawsuit against Equitybuild titled *SEC v. Equitybuild, Inc., et al.*, which is currently pending in the United States District Court, Northern District of Illinois, Case No. 18-cv-05587 (the "Receivership Action");

WHEREAS, the Receiver in the Receivership Action is currently in the process of selling properties and marshalling assets to pay creditors/claimants of the scheme, including the victims of the scheme that comprise Plaintiffs' proposed class. The Receiver is currently holding over \$55 million in Equitybuild assets to eventually distribute to creditors/claimants and has approximately fifty additional Equitybuild owned properties to liquidate and distribute those proceeds to creditors/claimants;

WHEREAS, on February 8, 2021 the Parties filed an Updated Joint Case Management Statement setting forth their respective statements and positions of the case. Wells Fargo submitted its intention to file a Motion to Stay pending resolution of the related Receivership Action and Plaintiffs indicated that they were inclined to oppose Wells Fargo's motion (ECF 97);

WHEREAS, during the February 9, 2021 Case Management Conference, the Court ordered the Parties to meet and confer and file a stipulation and proposed order to stay the case by February 19, 2021, or alternatively for Wells Fargo to file a Motion to Stay by March 1, 2021 if an agreement was not reached (ECF 98);

1 WHEREAS, in light of the pending parallel Receivership Action and potential that the  
 2 distribution from the Receivership may affect Plaintiffs and putative class members' alleged  
 3 damages and the manner in which alleged damages may be calculated, the Parties filed a Joint  
 4 Stipulation agreeing that a stay of the case is necessary pending further progress in the Receivership  
 5 Action (ECF 99);

6 WHEREAS, on February 23, 2021 the Court held a telephonic status conference and asked  
 7 the parties to address the length of the stay and how the stay will advance the discovery and issues  
 8 in this case, and the Court ordered the Parties to meet and confer and file a revised stipulation and  
 9 proposed order by February 26, 2021;

10 WHEREAS, the Parties met and conferred;

11 WHEREAS, Plaintiffs no longer believe that a stay is warranted, taking into account the  
 12 Court's concern about a stay of indefinite length, and having learned that the Receivership process  
 13 is unlikely to be materially advanced in the next three or six months;

14 WHEREAS, Wells Fargo maintains that a stay is appropriate and, as originally  
 15 contemplated, Wells Fargo intends to file a motion to stay (ECF 97 and 98);

16 WHEREAS, based on the foregoing, the Parties agree that in order to fully brief the issues  
 17 for the Court, Wells Fargo will file a motion to stay by March 12, 2021, Plaintiffs' Response will  
 18 be due on March 19, 2021, and Wells Fargo's Reply will be due on March 26, 2021.

19 NOW THEREFORE, undersigned counsel for the Parties, having met and conferred and  
 20 good cause appearing, hereby stipulate and agree that Wells Fargo will file a motion to stay by  
 21 March 12, 2021, Plaintiff's response will be due on March 19, 2021, and Wells Fargo's Reply will  
 22 be due on March 26, 2021.

### 23 24 STIPULATION

25 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs  
 26 and Wells Fargo through their respective undersigned counsel that:

- 27 1. Wells Fargo shall file a Motion to Stay this case by March 12, 2021;
- 28 2. Plaintiff's Response shall be due on March 19, 2021; and

3. Wells Fargo's Reply shall be due on March 26, 2021.

4. All other signatories listed, and on whose behalf the filing is submitted, concur with the content of this stipulation and have authorized the filing.

**IT IS SO STIPULATED.**

DATED: February 26, 2021

**MCGUIREWOODS LLP**

By: /s/ David C. Powell

David C. Powell  
Carolee Anne Hoover  
Two Embarcadero Center  
Suite 1300  
San Francisco, CA 94111  
Telephone: (415) 844-9944  
Facsimile: (415) 844-9922

K. Issac deVyver (*pro hac vice*)  
Nellie Hestin (*pro hac vice*)  
260 Forbes Avenue  
Suite 1800  
Pittsburgh, PA 15222  
Telephone: (412) 667-7909  
Facsimile: (412) 667-7993

*Attorneys for Defendant*

DATED: February 26, 2021

**GOLDMAN SCARLATO & PENNY P.C.**

By: /s/ Mark S. Goldman

Mark S. Goldman (Pro Hac Vice)  
Paul J. Scarlato (Pro Hac Vice)  
8 Tower Bridge, Suite 1025  
161 Washington Street  
Conshohocken, PA 19428  
Telephone (484)342-0700

Eve H. Cervantez  
ALTSHULER BERZON LLP  
117 Post Street, Suite 300  
San Francisco, CA 94108  
Tel: (415) 421-7151  
Facsimile: (415) 362-8064


1 Alan L. Rosca (Pro Hac Vice)  
2 GOLMAN SCARLATO & PENNY P.C.  
3 23250 Chagrin Blvd., Suite 100  
4 Beachwood, OH 44122  
5 Telephone: (484)342-0700

6 Jonathan Gardner (Pro Hac Vice)  
7 Christine M. Fox. (Pro Hac Vice)  
8 LABATON SUCHAROW LLP  
9 140 Broadway  
10 New York, NY 10005  
11 Telephone: (212) 907-0700  
12 Facsimile ( 212) 818-0477  
13 jgardner@labaton.com  
14 cfox@labaton.com

15 *Attorneys for Plaintiffs, Individually*  
16 *and on behalf of all others similarly situated.*

17 **IT IS SO ORDERED.**

18 DATED: 3/1/2021

19   
20 Honorable Haywood S. Gilliam, Jr.  
21 United States District Judge  
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